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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,766	08/07/2000	Cary Lee Bates	ROC9-2000-0073	3706

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EXAMINER

D AGOSTA, STEPHEN M

ART UNIT PAPER NUMBER

2683

DATE MAILED: 04/15/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/633,766

**Applicant(s)**

BATES ET AL.

**Examiner**

Stephen M. D'Agosta

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 10,11 and 20-22 is/are allowed.  
6) ☒ Claim(s) 1-9 and 12-19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

In view of the amendment filed on 2-19-04, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 6-9, 12 and 16-19** rejected under 35 U.S.C. 103(a) as being unpatentable over Tuoriniemi et al. U.S. Patent 5,978,689 in view of Logan et al. US 6,199,076 and Schwob US 5,152,012 (hereafter referred to as Tuoriniemi, Schwob and Logan).

As per **claims 1 and 12**, Tuoriniemi teaches a portable communication and audio system supporting a digital satellite radio (DSR)) receiver (C13, L3-40) which can receive a plurality of music/news programs/channels and radiotext that identifies music, name of performer, change of program, etc. (C13, L40-57) [eg. A processor that receives a plurality of DSR radio signals on a plurality of channels, each including a radio program and identifying information related to the and outputting audio information

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corresponding to the program in one of the DSR signals corresponding to the selected channel]. ***The examiner notes that the applicant's specification points much of this out (page 2, L19-22) as does the Xmradio.com website***

**But is silent on** a display that displays information regarding at least one channel that is not selected wherein the displayed information is derived from the indentifying information for the at least one channel that is not the selected channel.

Logan teaches an audio program player with dynamic program selection (title, abstract) that allows a user to selectively jump to other audio files (eg. channels) which are described but not selected (C2, L55 to C3, L11, specifically C3, L4-11 which describes "skimming" through subjects/channels and jumping to one desired).

Schwob teaches a radio broadcast receiver (C1, L15-20 and C2, L55-67 and figures 1-3 and C3, L53-68 to C4, L1-13) that has a screen which is "larger than normal" since it has the capacity/size to display many different pieces of information at the same time (ie. Alarm, date, Sleep, Preset Station #, Frequency, Station, City, State and Type of music – ref. figure 3 for these). Hence one skilled in the art would use a similarly sized display combined with the disclosures of Tuoriniemi and Dias. Schwob also discloses this device as being used on a TV receiver as well.

It would have been obvious to one skilled in the art at the time of the invention to modify Tuoriniemi, such that the system displays at least one channel that is not selected, to provide means for a user to simultaneously listen to one station/song while viewing if there is another station/song they prefer to switch to.

As per **claims 6 and 16**, Tuoriniemi teaches claim 1 wherein the display further displays information regarding the selected channel, wherein the displayed information regarding the selected channel is derived from the indentifying information from the selected channel (C13, L52-54 teaches radiotext that is displayed).

As per **claims 7 and 17**, Tuoriniemi teaches claim 1 wherein the displayed information includes a title for the radio program (C13, L52-54 teaches radiotext that identifies music, name of performer, change of program, etc. which encompasses title of radio program).

As per **claims 8 and 18**, Tuoriniemi teaches claim 1 **but is silent on** wherein the displayed information includes time remaining for the radio program. Tuoriniemi teaches radiotext that identifies music, name of performer, change of program, **etc.**, where the examiner interprets "etc." to include time remaining).

Alexander teaches a television display which shows how long a program lasts (figure 1 shows "PRIME TIME LIVE" with start/end times above it). Since one watches TV and shows last for at 30minutes, it is prudent to show start/end times. Radio is not watched and songs are typically much shorter, hence one skilled in the art would more likely choose to show time remaining for the program/song.

Logan teaches a system that supports radio broadcast programs whereby The scheduled duration of each program segment may be displayed, along with the elapsed time remaining to be played in the currently playing segment, to enable the user to more

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easily determine when to skip the remainder of the currently playing segment (C1, L10-30 and C12, L35-57).

It would have been obvious to one skilled in the art at the time of the invention to modify Tuoriniemi, such that the displayed information includes time remaining, to provide means for the user to decide – based on time remaining - whether to keep listening to the station/song or change the channel.

As per **claims 9 and 19**, Tuoriniemi teaches claim 1 wherein the displayed information includes artist and song title (C13, L52-54 teaches radiotext that identifies music, name of performer, change of program, etc. which encompasses title of radio program).

**Claim 2** rejected under 35 U.S.C. 103(a) as being unpatentable over Tuoriniemi/Logan/Schwob in view of Shigematsu et al. U.S. Patent 5,416,774 (hereafter referred to as Shigematsu).

As per **claim 2**, Tuoriniemi teaches claim 1 **but is silent on** further comprising memory coupled to the satellite radio processor, the memory containing at least one channel preset.

While a radio receiver is known to have memory presets, **Shigematsu** teaches a digital broadcast receiver (title) that supports DSR (C1, L10-20) with a display that has selection buttons to recall channel presets from memory (figure 7, #52). The examiner notes that Shigematsu teaches a more stationary receiver while a more mobile receiver is taught by Tuoriniemi.

It would have been obvious to one skilled in the art at the time of the invention to modify Tuoriniemi, such that memory contains at least one preset, to provide means for a user to quickly select their preferred stations from all available stations.

**Claims 3-4, 13-14** rejected under 35 U.S.C. 103(a) as being unpatentable over Tuoriniemi/Logan/Shigematsu/Schwob in view of Yuen et al. U.S. Patent 6,239,794 and Liebenow US 6,530,083 and Logan et al. US 6,199,076 (hereafter referred to as Yuen, Liebenow and Logan).

As per **claims 3 and 13**, Tuoriniemi teaches claim 2 **but is silent on** wherein the memory further contains a list of favorite channels, wherein the at least one channel that is not selected is in the list of favorite channels.

Liebenow teaches a radio or television receiver wherein the information handling system is a television, convergent television/computer system, **audio receiver**, or video receiver, a user may specify a **list of favorite channels or stations** in his or her user preference profile (C7, L44-50).

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It would have been obvious to one skilled in the art at the time of the invention to modify Tuoriniemi, such that the memory contains a favorites list, to provide means for the user to simultaneously listen to a radio program/song and view other programs/songs available which may be among their favorites list.

As per **claims 4 and 14**, Tuoriniemi teaches claim 3 **but is silent on** wherein the list of favorite channels is at least partially defined by the at least one channel preset.

Yuen teaches that memory contains a favorite channel list that includes a list of channel identifiers, each channel identifier corresponding to one of a subset of the set of channels received by the tuner (abstract).

Liebenow teaches a radio or television receiver wherein the information handling system is a television, convergent television/computer system, **audio receiver**, or video receiver, a user may specify a **list of favorite channels or stations** in his or her user preference profile (C7, L44-50).

It would have been obvious to one skilled in the art at the time of the invention to modify Tuoriniemi, such that the list of favorite channels is at least partially defined by the at least one channel preset, to provide means for one channel preset to bring up a listing of favorites that can be associated with that preset (eg. several JAZZ stations can be viewed based upon selecting that one channel preset button).

**Claims 5 and 15** rejected under 35 U.S.C. 103(a) as being unpatentable over Tuoriniemi/Logan/Shigematsu/Yuen/Schwob in view of Alexander et al. U.S. Patent 6,177,931 (hereafter referred to as Alexander).

As per **claims 5 and 15**, Tuoriniemi teaches claim 3 **but is silent on** wherein the list of favorites is determined by the processor according to which channels are listened to most frequently.

Alexander teaches a viewer profile which is based upon the a person's viewing habits (eg. which shows they watch more frequently than others) and giving them a higher precedence over others in the viewing list AND/OR automatically tuning the TV to that show when it is on (C30, L45-67, see Nick at Night reference).

It would have been obvious to one skilled in the art at the time of the invention to modify Tuoriniemi, such that the list of favorites is determined by the processor according to channels more frequently listened to, which provides means for the system to customize itself based upon the listening habits of the user.

### ***Allowable Subject Matter***

Claims 10-11 and 20-22 allowed – as previously indicated

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

1. Knox US 6,212,359
2. Bottom US 6,014,569
3. Yamaura et al. US 5,918,303
4. Crosby et al. US 6,628,928
5. Treyz US 6,678,215
6. Tanaka et al. US 6,466,765

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMD  
3-1-04



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